

**AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT**

**BY AND BETWEEN THE CITIES OF BRYAN & COLLEGE STATION, BRAZOS COUNTY,
AND BRAZOS ANIMAL SHELTER, INC.**

For the Administration and Common Use of an Animal Shelter

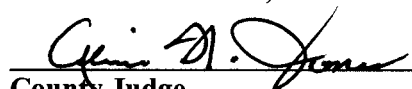
This amendment to the Intergovernmental Agreement, executed on October 22, 1991, is made and entered into by the parties below, in order to approve a new lease agreement between the City of Bryan and the Brazos Animal Shelter, Inc. The current lease expires on June 30, 2001. The new lease, attached to this Amendment as Exhibit "A", extends the lease period for another ten years.

Attachment: Exhibit "A".

ATTEST:


County Clerk

BRAZOS COUNTY, TEXAS:


County Judge

APPROVED AS TO FORM:

N/A
County Attorney

ATTEST:

City Secretary


CITY OF COLLEGE STATION:

Mayor

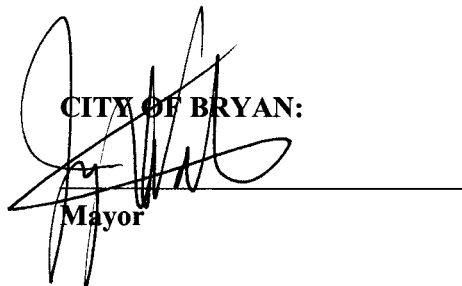
APPROVED AS TO FORM:

City Attorney

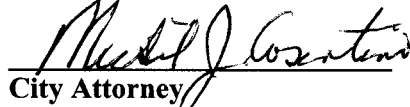
ATTEST:


City Secretary

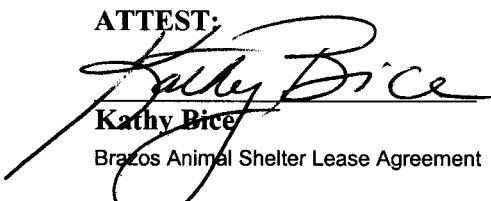
CITY OF BRYAN:


Mayor

APPROVED AS TO FORM:


City Attorney

ATTEST:


Kathy Bice
Brazos Animal Shelter Lease Agreement

BRAZOS ANIMAL SHELTER, INC.


Director

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this the ____ day of _____, 2001, by and between the CITY OF BRYAN, hereinafter referred to as "Lessor", and BRAZOS ANIMAL SHELTER, INC., a Texas Non-Profit Corporation with offices 2207 Finfeather Road, Bryan, Texas 77801, referred to as "Lessee". This Lease is executed in conjunction with an Intergovernmental Agreement between the Cities of Bryan and College Station and Brazos County for the operation of an animal shelter. At the termination of this Lease, the Leased Premises shall revert to the City of Bryan and specifically, to Bryan Texas Utilities.

ARTICLE 1. LEASED PREMISES

Lessor does hereby lease to Lessee that certain tract of land and the structures located thereon, known as 2207 Finfeather, Bryan, Brazos County, Texas, and more particularly described in Exhibit "A"; said property hereinafter referred to as the "Leased Premises". Lessor hereby grants Lessee, for the term and any extension of this lease, for the benefit of Lessee and Lessee's employees, agents, customers, and invitees, the right to use the Leased Premises for the operation of an animal shelter.

ARTICLE 2. LEASE TERM

2.01. **Commencement and Termination.** This lease shall be for a term of ten (10) years, referred to as the lease term, commencing on July 1, 2001 and terminating on June 30, 2011, subject to earlier termination as provided herein.

ARTICLE 3. RENT

3.01. **Rent.** No rent is required from Lessee, as long as Lessee maintains the Leased Premises in compliance with this Lease Agreement. Lessee's occupation of the Leased Premises and waiver of rent serve as a portion of the contribution of the City of Bryan to the maintenance of the Brazos Animal Shelter, pursuant to the Intergovernmental Agreement between the Cities of Bryan and College Station and Brazos County, Texas, dated October 22, 1991.

ARTICLE 4. CONDITIONS OF LEASED PREMISES

4.01 **Condition of Leased Premises.** Lessee has examined and accepts the Leased Premises in its present AS IS condition as suitable for the purposes for which the same are leased, and does hereby accept the Leased Premises.

ARTICLE 5. USE OF LEASED PREMISES

5.01 **Sole Purpose.** The Leased Premises shall be used solely for the operation and maintenance of an animal shelter for the use and benefit of the public of the Brazos Valley.

ARTICLE 6. MAINTENANCE OF LEASED PREMISES

6.01 **Care and Maintenance of Leased Premises.** Lessee shall commit no act of waste and shall take good care of the Leased Premises and the fixtures and appurtenances on it, and shall, in the use and occupancy of the Leased Premises, conform to all laws, orders, and regulations of the United States,

the State of Texas, and the City of Bryan. Lessee shall make all necessary repairs to the Leased Premises. All improvements made by Lessee to the Leased Premises which are so attached to the Leased Premises that they cannot be removed without material injury to the Leased Premises, shall become the property of Lessor upon installation.

Not later than the last day of the term, Lessee shall, at Lessee's expense, remove all of Lessee's personal property and those improvements made by Lessee which have not become the property of Lessor, and surrender Leased Premises in as good condition as they were at the beginning of the term, absent reasonable wear and damage by fire, the elements, casualty, or other causes not due to the misuse or neglect by Lessee or Lessee's agents, servants, visitors or licensee, excepted. All property of Lessee remaining on the Leased Premises after the last day of the term of this lease shall be conclusively deemed abandoned and may be removed by Lessor.

6.02 Accumulation of Waste or Refuse Matter. Lessee shall not permit the accumulation of waste or refuse matter on the Leased Premises or anywhere in or near the buildings.

6.03 Alterations, Additions or Improvements. Lessee shall not, without first obtaining the written consent of Lessor, make any alterations, additions or improvements in, to or about the Leased Premises.

ARTICLE 7. INSURANCE AND INDEMNIFICATION

7.01. Insurance. Lessee agrees that it will, at its own expense, at all times during the term of this lease, maintain in force a policy or policies of insurance, written by one or more responsible insurance carriers, approved by lessor, which will insure Lessor against liability for injury to or death of persons or loss or damage to their property occurring in or about the demised Leased Premises in the amount of One Million Dollars (\$1,000,000.00).

7.02 Indemnification of Lessor. Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Premises, or any part thereof, whether caused by any defect on the Leased Premises or in any structure or other improvement thereon or in any equipment or other facility therein, or caused by or arising from any act or omission of Lessee, or of any of Lessee's agents, employees, licensees, or invitees, or by or from any accident on the Leased Premises or any fire or other casualty thereon, or occasioned by the failure of Lessee to maintain the Leased Premises in safe condition, or arising from any other cause whatsoever; and Lessee hereby waives all claims and demands against Lessor for any such loss, damage, or injury of Lessee, and hereby agrees to indemnify and hold Lessor entirely free and harmless from all liability for any such loss, damage, or injury of other persons, and from all costs and expenses arising therefrom, including Lessor's own negligence. The indemnity provided in this subarticle includes indemnity for losses caused in the demolition operations that will be conducted by Lessee on the Leased Premises up to the termination date of the lease. Any demolition and losses flowing therefrom undertaken by the Lessor after the termination of the lease will be Lessor's liability.

ARTICLE 8. ASSIGNMENT AND SUBLEASE

8.01 Lessee shall not pledge or encumber this lease, in whole or in part, or sublet the Leased Premises or any part thereof. This covenant shall be binding upon the legal representatives of lessee, and upon every person to whom Lessee's interest under this lease passes by operation of law.

ARTICLE 9. SECURITY DEPOSIT

9.01 Lessor shall waive any security deposit.

ARTICLE 10. UTILITIES

10.01 Lessee shall pay for all utilities used on the Leased Premises including, but not limited to, electricity, gas, sewer and water.

ARTICLE 11. DEFAULT AND REMEDIES

11.01 **Termination on Default.** Should Lessee default in the performance of any covenant, condition, or agreement in this lease, and such default is not corrected or good faith efforts undertaken to correct such default within ten (10) days after receipt of written notice from Lessor to Lessee, Lessor may declare this lease, and all rights and interests created by it, to be terminated. Upon Lessor electing to terminate, this lease shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof. Should Lessor default in the performance of any covenant or agreement herein contained and such default shall continue for ten (10) days after receipt by Lessee of written notice thereof given by the Lessee, then at Lessee's option the lease shall terminate.

11.02 **Lessor's Right To Cure Lessee's Breach.** If Lessee breaches any covenant or condition of this lease, Lessor may, on reasonable notice to Lessee (except that no notice need be given in case of emergency) cure such breach at the expense of Lessee.

11.03 **Other Remedies.** Any termination of this lease as herein provided shall not relieve Lessee from the payment of any sum or sums that shall then be due and payable to Lessor hereunder at the time of such termination, or any claim for damages then or previously accruing against Lessee hereunder, and any such termination shall not prevent Lessor from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Lessee or for any default hereunder. All rights, options, and remedies of Lessor contained in this lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this lease. No waiver by Lessee of a breach of any of the covenants, conditions, or restrictions of this lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this lease.

ARTICLE 12. LESSOR'S WARRANTIES

12.01. **Warranty of Title.** Lessor hereby represents and warrants that it is the owner in fee simple absolute of the Leased Premises subject to any covenants, conditions, restrictions, easements, and other matters of record, which covenants, conditions, restrictions, and easements shall not interfere with or prevent the use to be made of the Leased Premises.

12.02. **Warranty of Quiet Enjoyment.** Lessor covenants and agrees that Lessee, upon observing and keeping the covenants, conditions, and terms of this lease on Lessee's part to be kept or performed, shall lawfully and quietly hold, occupy, and enjoy the Leased Premises during the term of this lease without hindrance or molestation by Lessor or any person claiming under Lessor.

ARTICLE 13. OPERATION OF THE ANIMAL SHELTER

13.01 **Regulation Compliance.** Lessee expressly agrees to comply with the rules and regulations set for in the City of Bryan Code of Ordinances, as they now exist or may be amended during the term of this Lease. This Lease shall also be subject to and Lessee shall comply with all City, State and Federal ordinances, statutes and regulations applicable to the use of the Premises.

ARTICLE 14. GENERAL PROTECTIVE PROVISIONS

14.01. **Right of Entry and Inspection.** Lessee shall permit Lessor or its agents, representatives, or employees to enter on the Leased Premises for the purposes of inspection, determining whether Lessee is in compliance with the terms of this lease, maintaining, repairing, or altering the Leased Premises.

14.02. **No Waiver.** No waiver by Lessor of any default or breach of any covenant, condition, or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation hereof.

14.03. **Release of Lessor.** In the event Lessor shall sell or transfer the Leased Premises or any part thereof and as a part of such transaction shall assign its interest as Lessor in and to this lease, then from and after the effective date of such sale, assignment, or transfer, Lessor shall have no further liability under this lease to Lessee, except as to matters of liability which shall have accrued and are unsatisfied as of such date, it being intended that the covenants and obligations contained in this lease on the part of Lessor shall be binding on Lessor and Lessor's successors and assigns only during and in respect of their respective successive periods of ownership of the fee.

ARTICLE 15. TERMINATION

15.01. **Early Termination.** Either party may terminate this lease agreement upon 60 days written notice to the other party.

15.02. **Condemnation.** If the whole or any substantial part of the Leased Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or should the Leased Premises be sold to a condemning authority under threat of condemnation, this lease shall terminate.

ARTICLE 16. MISCELLANEOUS

16.01. **Delivery of Notices.** All notices, demands, or requests from one party to another may be personally delivered or sent by mail, certified or registered, postage prepaid, to the addresses stated below, and shall be deemed to have been given at the time of personal delivery or at the time of mailing:

Lessor:
CITY OF BRYAN
ATTENTION: CITY MANAGER
P.O. Box 1000
Bryan, Texas 77805

Lessee:
BRAZOS ANIMAL SHELTER, INC.,
ATTENTION: EXECUTIVE DIRECTOR
P.O. Box 4191
Bryan, Texas 77805

Either party may change their respective address, effective upon prior written notice to the other

party.

16.02. **Binding Effect.** Subject to the provision of this lease pertaining to assignment of the Lessee's interest, all provisions of this lease shall extend to and bind, or inure to the benefit not only of the parties to this lease but to each and every one of the heirs, executors, representatives, successors, and assigns of Lessor and Lessee

16.03. **Texas Law to Apply.** This Lease shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Brazos County, Texas.

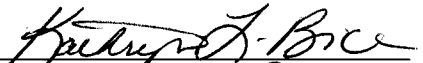
16.04. **Legal Construction.** In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this lease and it shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

16.05. **Amendment.** No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by all the parties hereto.

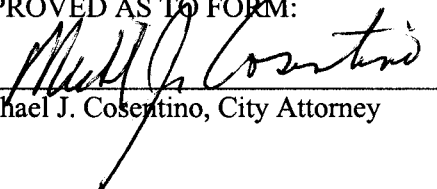
16.06. **Rights and Remedies Cumulative.** The rights and remedies provided by this lease are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. The rights and remedies provided herein are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

The Lease has been executed by the undersigned in duplicate originals on the dates specified and is effective as of the date first written above.

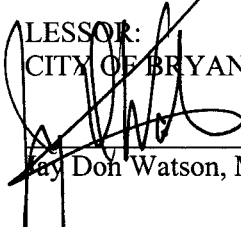
LESSEE:
BRAZOS ANIMAL SHELTER, INC.

By: 
Title: Executive Director
Executed on: 7-10-01

APPROVED AS TO FORM:


Michael J. Cosentino, City Attorney

LESSOR:
CITY OF BRYAN, TEXAS


Ray Don Watson, Mayor

ATTEST:


Mary Lynne Stratta, City Secretary

THE STATE OF TEXAS .
COUNTY OF BRAZOS .

This instrument was acknowledged before me this the ____ day of _____, 2001, by Jay Don Watson, Mayor of the CITY OF BRYAN, on behalf of and as the act and deed of said City.

Notary Public in and for
Brazos County, Texas
My Commission Expires:

THE STATE OF TEXAS .
COUNTY OF BRAZOS .

This instrument was acknowledged before me this ____ day of _____, 2001, by _____, _____ on behalf of BRAZOS ANIMAL SHELTER, INC., a Texas Non-Profit Corporation.

Notary Public in and for
Brazos County, Texas
My Commission Expires: